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**UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF NEVADA**

In re:)	Case No.: 22-14422-NMC
)	
MUSCLEPHARM CORPORATION,)	Chapter 11
)	
)	
Debtor.)	Hearing Date: May 16, 2023
)	Hearing Time: 9:30 a.m.
)	

**JOINT STATUS REPORT RE DEBTOR'S MOTION
 FOR ENTRY OF ORDER: (I) VACATING ORDERS GRANTING EX PARTE
 APPLICATIONS FOR EXAMINATION PURSUANT TO BANKRUPTCY
RULE 2004, AND (II) ESTABLISHING PROCEDURES FOR DISCOVERY**

MusclePharm Corporation, the debtor and debtor-in-possession in the above-referenced Chapter 11 case (the “**Debtor**”), by and through its counsel, Schwartz Law, PLLC, the Official Committee of Unsecured Creditors (the “**Committee**”), by and through its counsel, Pachulski Stang Ziehl & Jones, LLP, Empery Tax Efficient, LP (“**Empery**”), by and through its counsel, Garman Turner Gordon LLP, JW Nutritional LLC (“**JWN**”), by and through its counsel, Ghandi Deeter Blackham Law Offices, and Ryan Drexler (“**Drexler**”), by and through his counsel, Steinhilber Swanson LLP (the Debtor, the Committee, Empery, JWN and Drexler shall be collectively referred to as the “**Parties**”), hereby submit this Joint Status Report (the “**Joint Status Report**”) relating to the Debtor’s *Motion for Entry of Order: (I) Vacating Orders Granting Ex Parte Applications for Examination Pursuant to Bankruptcy Rule 2004, and (II) Establishing Procedures for Discovery* (the “**Motion to Vacate**”). [ECF No. 462].

STATUS REPORT

1
2 1. As of the date of this Joint Status Report, the Parties met and conferred, and agreed
3 to a discovery schedule or scope for some of the pending matters, as follows:

4 **The Bid Procedures Motion**

5 2. The Debtor will produce its documents related to *Motion to: (I) Approve Bidding*
6 *Procedures for the Sale of Assets Pursuant to 11 U.S.C. 105, 363, and 365 of the Bankruptcy Code*
7 *and Bankruptcy Rules 2002, 6004 and 6006 and (II) For Waiver of the 14-Day Stay Under*
8 *Bankruptcy Rule 6004* [ECF No. 497] (the “**Bidding Procedures Motion**”) on or before May 19,
9 2023, and its witness on May 22, 2023, provided that there shall be at least one full business day or
10 two weekend days between the date that document production has been completed and the date of
11 the deposition..

12 3. Mr. Nicholas Rubin (“**Rubin**”) will be the Debtor’s FRCP 30(b)(6) witness with
13 respect to the Bidding Procedures Motion. The Debtor does not intend to present any other
14 witnesses in support of that motion, but the parties reserve all rights with respect to witnesses.

15 **The Trustee Motion**

16 4. The May 25, 2023, hearing of the Bidding Procedures Motion will be used as a
17 further status report with respect to the *Motion for the Appointment of a Chapter 11 Trustee* [ECF
18 No. 447] (the “**Trustee Motion**”). In connection with the Trustee Motion, the Debtor has so far
19 agreed to produce Mr. Rubin as its FRCP 30(b)(6) witness, and Mr. Eric Hillman as one of its
20 FRCP 30(b)(6) corporate designees and/or in his capacity as Chief Executive Officer of the Debtor.
21 There is no agreement yet among the parties as to other witnesses to be presented or deposed by
22 Drexler, and the parties will continue to meet and confer with respect thereto.

23 5. The Debtor will endeavor to produce documents responsive to the requests served
24 by Drexler on the Debtor in relation to the Trustee Motion during the week of May 22, 2023, as
25 such requests may be agreed to be modified, and schedule the depositions of the Debtor’s witnesses,
26 as the identity of all witnesses may be agreed to be modified, shortly after completion of such
27 document production. As of the time of this Joint Status Report, the parties continue to meet and
28

1 confer on the identity of all witnesses and the scope of all document production in relation to the
2 Trustee Motion.

3 6. As of the time of this Joint Status Report, it is anticipated other entities will object
4 to the Trustee Motion, and be treated as parties for discovery purposes, including the Debtor, the
5 Committee, Empery, and their respective employees. The Debtor submits that depositions of non-
6 parties, including employees of the Debtor and Committee members, is unnecessary and
7 inappropriate at this time; the Committee submits that depositions of Committee members are
8 unnecessary and inappropriate at this time; Mr. Drexler submits that document production and
9 depositions from (a) the Debtor's non-executive employees, William Hovi and Jason Keenan, (b)
10 Empery's employees, Ryan Lane (who Empery has agreed to produce for deposition) and Timothy
11 Silver, (c) JWN and its principal Jesse Windrix, and (d) Peter Jungsberger, are necessary to obtain
12 relevant discovery of other grounds asserted in the Trustee Motion.

13 7. Empery asserts that Drexler's discovery concerning the Bidding Procedures Motion
14 and the Trustee Motion violate the terms of that certain Intercreditor and Subordination Agreement
15 as amended March 8, 2022. Drexler asserts that the foregoing agreement is inapplicable for a variety
16 of reasons, including that the Trustee Motion and discovery are completely outside its ambit. At
17 the time this Joint Report was submitted, the parties were continuing to discuss these matters.

18 8. Mr. Drexler agreed to sequence discovery based on the case timeline proposed by
19 the Debtor, the Committee, and Empery during the May 9, 2023 hearing, starting with the hearing
20 of the Bid Procedures, followed by the hearing of the Trustee Motion, then the prosecution of the
21 Debtor's ultimate disclosure statement and plan of reorganization.

22 9. The Parties agree that other than the discovery set forth in this Joint Status Report,
23 the deadlines set by prior served subpoenas and discovery requests are suspended pending further
24 agreement or Court order.

25 10. The Parties agree to (i) provide counsel to the Committee with copies of all
26 documents produced in connection with the Bid Procedures Motion and Trustee Motion
27 contemporaneously with such production and to (ii) permit counsel to the Committee to attend all
28 depositions held in connection with the Bid Procedures Motion and Trustee Motion.

CONCLUSION

Dated: May 15, 2023.

[Signatures on following page.]

1 Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent electronically via the Court's CM/ECF System on May 15, 2023, to the following:

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